IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22002 of 2004

Between:

Kolla Viswanatham, S/o. Venkata Subbaiah,
Anaparru Village, Pedanandipadu Mandal, Guntur District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Guntur, Guntur District.
2 The Mandal Revenue Officer, Pedanandipadu Mandal,

Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent of Writ of Mandamus declaring the action of the 1st respondent in not completing the enquiry and passing of final orders as directed by the Joint Collector, Guntur in A.C.D.Dis.14/2004/-S7, dated 9-9-2004 as illegal, arbitrary and consequently set-aside the order or proceedings of the 1st respondent in Rc.No. 3257/04-4. dated 7-7-2004 pending the enquiry before the 1st respondent.

Counsel for the Petitioner: MR.K.SRINIVAS

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

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ORDER:

The petitioner is a Fair Price Shop Dealer of Anaparru Village, Pedanandipadu Mandal, Guntur District. His authorization was suspended by the first respondent through proceedings, dated 07.07.2004. Aggrieved thereby, he preferred an appeal before the Joint Collector, the third respondent. The appeal was disposed of through order, dated 09.09.2004. The third respondent has remanded the matter to the first respondent without indicating as to whether the order of suspension is set aside, sustained or modified. The petitioner seeks appropriate relief in this regard.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The petitioner availed the remedy of appeal aggrieved by the order of suspension of dealership. A perusal of the order, dated 09.09.2004, passed in the appeal discloses that either there was non-application of mind or the appellate authority was not experienced in dealing with the appeals. It is settled principle that an appellate authority can remand the matter to a primary or subordinate authority only after setting aside the order under appeal. Remanding the matter while keeping the order under appeal intact is unknown to law. The third respondent did nothing more than making an observation as to the filing of an appeal, appearance of the counsel and remanding the matter. It is an imperfect and improper exercise of power. The very fact that the matter has been remanded infers that the order under appeal has been set aside.

For the foregoing reasons, the writ petition is disposed of directing that the order dated 07.07.2004 passed by the first respondent, suspending the authorization of the petitioner shall be inoperative and that the petitioner shall be entitled to be continued as Fair Price Shop Dealer, pending the disposal of the proceedings before the first respondent in relation to cancellation of the authorization. There shall be no order as to costs.

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01.12.2004

Note:Issue C.C. in three days

(B/o)

Jsu

To

1 The Revenue Divisional Officer, Guntur, Guntur District.

2 The Mandal Revenue Officer, Pedanandipadu Mandal, Guntur District.

3 2CCs to the G.P for Civil Supplies, High Court Buildings, Hyderabad(O.U.T).

4 2CD copies